

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Nuance Communications, Inc., : CIVIL ACTION
: NO. 16-5173
Plaintiff :
v. :
:
International Business :
Machines Corporation, :
:
Defendant. :

ORDER

AND NOW, this **14th** day of **November, 2019**, after considering the parties' deposition designations and objections, it is hereby **ORDERED**¹ that:

1. Nuance's objection to the Designations of the Deposition of E. Cox, on page 108, is **SUSTAINED**;
2. Nuance's objection to the Designations of the Deposition of E. Cox, on pages 153 through 156, is **SUSTAINED**;
3. Nuance's objection to the Designations of the Deposition of Devarakonda, on page 153, is **OVERRULED**;
4. Nuance's objection to the Designations of the Deposition of Devarakonda, on pages 153 through 154, is **OVERRULED**;

¹ Exhibit "A" is a chart summarizing the Court's rulings on the objections.

5. Nuance's objection to the Designations of the Deposition of Devarakonda, on pages 157 through 158, is **OVERRULED**;
6. Nuance's objection to the Designations of the Deposition of Morello, on page 26, is **SUSTAINED**;
7. Nuance's objection to the Designations of the Deposition of Morello, on page 27, is **SUSTAINED**;
8. IBM's objection to the Designations of the Deposition of Fanty, on page 76, is **OVERRULED**;
9. IBM's objection to the Designations of the Deposition of Fanty, on page 77, is **OVERRULED**;
10. IBM's objection to the Designations of the Deposition of Fanty, on pages 117 through 118, is **OVERRULED**;
11. IBM's objection to the Designations of the Deposition of Fanty, on pages 122 through 123, is **OVERRULED**;
12. IBM's objection to the Designations of the Deposition of Fanty, on page 136, is **OVERRULED**;
13. IBM's objection to the Designations of the Deposition of Fanty, on pages 136 through 137, is **OVERRULED**;

14. IBM's objection to the Designations of the
Deposition of Fanty, on pages 137 through 138, is
OVERRULED;
15. IBM's objection to the Designations of the
Deposition of Fanty, on page 170, is **OVERRULED;**
16. IBM's objection to the Designations of the
Deposition of Fanty, on pages 170 through 171, is
OVERRULED;
17. IBM's objection to the Designations of the
Deposition of Liao, on pages 84 through 85, is
OVERRULED;
18. IBM's objection to the Designations of the
Deposition of Liao, on pages 85 through 86, is
OVERRULED;
19. IBM's objections to the Designations of the
Deposition of Liao, on page 111, are **SUSTAINED;**
20. IBM's objection to the Designations of the
Deposition of Liao, on page 174, is **OVERRULED;**
21. IBM's objection to the Designations of the
Deposition of Morello, on page 15, is **OVERRULED;**
22. IBM's objection to the Designations of the
Deposition of Morello, on page 16, is **OVERRULED;**

23. IBM's objection to the Designations of the
Deposition of Morello, on pages 16 through 17, is
OVERRULED;
24. IBM's objections to the Designations of the
Deposition of Morello, on page 18, are **OVERRULED;**
25. IBM's objection to the Designations of the
Deposition of Morello, on pages 57 through 58, is
OVERRULED;
26. IBM's objections to the Designations of the
Deposition of Morello, on page 58, are **OVERRULED;**
27. IBM's objection to the Designations of the
Deposition of Morello, on page 59, is **SUSTAINED;**
28. IBM's objections to the Designations of the
Deposition of Morello, on page 94, are **OVERRULED;**
29. IBM's objection to the Designations of the
Deposition of Morello, on pages 94 through 95, is
OVERRULED;
30. IBM's objection to the Designations of the
Deposition of Morello, on page 96, is **OVERRULED;**
31. IBM's objection to the Designations of the
Deposition of Rhodin, on page 20, is **OVERRULED;**
32. IBM's objection to the Designations of the
Deposition of Rhodin, on page 21, is **OVERRULED;**

33. IBM's objection to the Designations of the
Deposition of Rhodin, on page 22, is **OVERRULED**;
34. IBM's objection to the Designations of the
Deposition of Rhodin, on page 23, is **OVERRULED**;
35. IBM's objection to the Designations of the
Deposition of Rhodin, on page 67, is **OVERRULED**;
36. IBM's objection to the Designations of the
Deposition of Rhodin, on page 106, is **OVERRULED**;
37. IBM's objection to the Designations of the
Deposition of Rhodin, on page 139, is **OVERRULED**;
38. IBM's objection to the Designations of the
Deposition of Rhodin, on page 140, is **OVERRULED**;
39. IBM's objection to the Designations of the
Deposition of Rhodin(2)², on pages 137 through 138,
is **OVERRULED**;
40. IBM's objection to the Designations of the
Deposition of Rhodin(2), on page 139, is **OVERRULED**;
41. IBM's objection to the Designations of the
Deposition of Rhodin(2), on page 140, is **OVERRULED**;
42. IBM's objection to the Designations of the
Deposition of Rhodin(2), on page 168, is **OVERRULED**;

² Both parties submitted the Rhodin deposition with designations. While there is some overlap between the objections indicated on each, there are some objections that appear on one but not the other. For purposes of this order, the Rhodin deposition submitted by IBM is referenced as Rhodin(2).

43. IBM's objection to the Designations of the
Deposition of Rhodin(2), on page 169, is **OVERRULED;**
44. IBM's objection to the Designations of the
Deposition of Sejnoha, on pages 96 through 97, is
OVERRULED;
45. IBM's objection to the Designations of the
Deposition of Sejnoha, on page 97, is **SUSTAINED;**
46. IBM's objection to the Designations of the
Deposition of Sejnoha, on page 99, is **SUSTAINED;**
47. IBM's objection to the Designations of the
Deposition of Sejnoha, on pages 100 through 101, is
SUSTAINED;
48. IBM's objection to the Designations of the
Deposition of Sejnoha, on page 111, is **SUSTAINED;**
49. IBM's objection to the Designations of the
Deposition of Sejnoha, on page 135, is **SUSTAINED;**
50. IBM's objection to the Designations of the
Deposition of Sejnoha, on page 141, is **SUSTAINED IN
PART;**³
51. IBM's objection to the Designations of the
Deposition of Xiang, on page 28, is **OVERRULED;**

³ The testimony designated here will be permitted to show state of mind.

52. IBM's objection to the Designations of the Deposition of Xiang, on pages 28 through 29, is **OVERRULED;**
53. IBM's objection to the Designations of the Deposition of Xiang, on page 30, is **OVERRULED;**
54. IBM's objection to the Designations of the Deposition of Xiang, on page 40, is **OVERRULED;**
55. IBM's objection to the Designations of the Deposition of Xiang, on pages 69 through 71, is **SUSTAINED;⁴**
56. IBM's objection to the Designations of the Deposition of Xiang, on pages 91 through 92, is **SUSTAINED;⁵**
57. IBM's objection to the Designations of the Deposition of Xiang, on page 93, is **SUSTAINED IN PART;⁶**
58. IBM's objection to the Designations of the Deposition of Xiang, on page 100, is **OVERRULED;**
59. IBM's objection to the Designations of the Deposition of Xiang, on page 101, is **OVERRULED;**

⁴ The testimony designated here will be excluded because the witness lacks personal knowledge.

⁵ The testimony designated here will be excluded because the witness lacks personal knowledge.

⁶ The testimony designated here will be permitted to show state of mind.

60. IBM's objection to the Designations of the
Deposition of Xiang, on page 102, is **SUSTAINED**;⁷

61. IBM's objection to the Designations of the
Deposition of Xiang, on page 103, is **OVERRULED**.

AND IT IS SO ORDERED.

/s/ Eduardo C. Robreno
EDUARDO C. ROBRENO, J.

⁷ The testimony designated here will be excluded because the witness lacks personal knowledge.

EXHIBIT A

<u>Nuance Communications Objections</u>					
Deposition/Location	Basis for Objection	Sustained	Overruled	Sustained in Part/Denied in Part	Reason for Disposition
Cox, pg. 108	Non-Responsive/Speculation	X			
Cox, pgs. 153-56	Hearsay	X			
Devarakonda, pg. 153	Hearsay		X		
Devarakonda, pgs. 153-54	Hearsay		X		
Devarakonda, pgs. 157-58	Hearsay		X		
Morello, pg. 26	Hearsay	X			
Morello, pg. 27	Hearsay	X			

<u>International Business Machines Corporation Objections</u>					
Deposition/Location	Basis for Objection	Sustained	Overruled	Sustained in Part/Denied in Part	Reason for Disposition
Fanty, pg. 76	Unresponsive		X		
Fanty, pg. 77	Unresponsive		X		
Fanty, pgs. 117-18	Relevance		X		
Fanty, pgs. 122-23	Relevance		X		
Fanty, pg. 136	Relevance		X		
Fanty, pgs. 136-37	Relevance		X		
Fanty, pgs. 137-38	Relevance		X		
Fanty, pg. 170	Relevance		X		
Fanty, pgs. 170-71	Relevance		X		
Liao, pgs. 84-85	Relevance		X		

<u>International Business Machines Corporation Objections</u>					
Deposition/Location	Basis for Objection	Sustained	Overruled	Sustained in Part/Denied in Part	Reason for Disposition
Liao, pgs. 85-86	Relevance		X		
Liao, pg. 111	Lack of Personal Knowledge	X			
Liao, pg. 111	Lack of Personal Knowledge	X			
Liao, pg. 174	Relevance		X		
Morello, pg. 15	Outside of Scope		X		
Morello, pg. 16	Outside of Scope		X		
Morello, pgs. 16-17	Outside of Scope		X		
Morello, pg. 18	Relevance		X		
Morello, pg. 18	Relevance		X		

<u>International Business Machines Corporation Objections</u>					
Deposition/Location	Basis for Objection	Sustained	Overruled	Sustained in Part/Denied in Part	Reason for Disposition
Morello, pgs. 57-58	Outside of Scope		X		
Morello, pg. 58	Outside of Scope		X		
Morello, pg. 58	Speculation/ Outside of Scope		X		
Morello, pg. 59	Speculation/ Outside of Scope	X			
Morello, pg. 94	Outside of Scope		X		
Morello, pg. 94	Outside of Scope		X		
Morello, pgs. 94-95	Outside of Scope		X		
Morello, pg. 96	Outside of Scope		X		

<u>International Business Machines Corporation Objections</u>					
Deposition/Location	Basis for Objection	Sustained	Overruled	Sustained in Part/Denied in Part	Reason for Disposition
Rhodin, pg. 20	Relevance		X		
Rhodin, pg. 21	Relevance		X		
Rhodin, pg. 22	Relevance		X		
Rhodin, pg. 23	Relevance		X		
Rhodin, pg. 67	Relevance		X		
Rhodin, pg. 106	Relevance		X		
Rhodin, pg. 139	Relevance		X		
Rhodin, pg. 140	Relevance		X		
Rhodin(2) ⁸ , pgs. 137-38	Relevance		X		

⁸ Both parties submitted the Rhodin deposition with designations. While there is some overlap between the objections indicated on each, there are some objections that appear on one but not the other. For purposes of this chart, the Rhodin deposition submitted by IBM is referenced as Rhodin(2).

<u>International Business Machines Corporation Objections</u>					
Deposition/Location	Basis for Objection	Sustained	Overruled	Sustained in Part/Denied in Part	Reason for Disposition
Rhodin(2), pg. 139	Relevance		X		
Rhodin(2), pg. 140	Relevance		X		
Rhodin(2), pg. 168	Relevance		X		
Rhodin(2), pg. 169	Relevance		X		
Sejnoha, pgs. 96-97	Hearsay		X		
Sejnoha, pg. 97	Hearsay	X			
Sejnoha, pg. 99	Hearsay	X			
Sejnoha, pgs. 100-01	Hearsay	X			
Sejnoha, pg. 111	Speculation	X			
Sejnoha, pg. 135	Hearsay	X			

<u>International Business Machines Corporation Objections</u>					
Deposition/Location	Basis for Objection	Sustained	Overruled	Sustained in Part/Denied in Part	Reason for Disposition
Sejnoha, pg. 141	Hearsay			X	State of Mind
Xiang, pg. 28	Relevance/ Outside of Scope		X		
Xiang, pgs. 28-29	Relevance/ Outside of Scope		X		
Xiang, pg. 30	Outside of Scope		X		
Xiang, pg. 40	Outside of Scope		X		
Xiang, pgs. 69-71	Relevance	X			No personal knowledge
Xiang, pgs. 91-92	Relevance/ Outside of Scope	X			No personal knowledge
Xiang, pg. 93	Relevance/ Outside of Scope			X	State of Mind

<u>International Business Machines Corporation Objections</u>					
Deposition/Location	Basis for Objection	Sustained	Overruled	Sustained in Part/Denied in Part	Reason for Disposition
Xiang, pg. 100	Relevance/ Outside of Scope		X		
Xiang, pg. 101	Relevance/ Outside of Scope		X		
Xiang, pg. 102	Relevance/ Outside of Scope	X			No personal knowledge
Xiang, pg. 103	Relevance/ Outside of Scope		X		